MADRAS REGULATION XII OF 1816.[1]

[THE MADRAS VILLAGE-LANDS DISPUTES REGULATION, 1816.]

[*13th September 1816.*]

A Regulation for authorizing Collectors to refer *claims regarding lands or crops, the validity of which claims may depend on the determination of a disputed boundary*[2]; as also certain disputes respecting the occupying, cultivating, and irrigating of land, to be tried and determined by Village and District Panchayats ; and for prescribing the Rules under which the trial of such disputes shall be conducted, and the decisions of the Panchayats carried into execution.

Preamble

[2] *The mode of determining the validity of claims to disputed lands or crops prescribed in section* 2, *Regulation XXXII*, 1802,[3] *being considered to be inconvenient to the parties*, and the determining, in the Adálat of the zila of suits respecting the occupying, cultivating and irrigation of land, which may arise between proprietors or renters and their raiyats, in those districts where the land-revenue is fixed either permanently, or for a term of years, being also regarded as liable to the same objections ; and it being deemed expedient that further provision should be made for the investigation and determination of such claims, and that Collectors should for that purpose be authorized to refer

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[1] Short title " The Madras Village-lands Disputes Regulation, 1816 " —*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been extended, by notification under s. 5 of the same Act, Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Rampa Country —*see Gazette of India*, 1879, Pt. I, p. 631, and *Fort St. George Gazette*, *ibid*, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the taluks of Bhadrachalam and Rakapilli—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette*, *ibid*, p. 722.

The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Regulation is in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation I of 1909.

[2] The Regulation has been repealed by the Madras Survey and Boundaries Act, 1897 (Mad. Act IV of 1897), so far as it applies to cases of claims to lands or crops, the validity of which claims may depend upon the determination of an uncertain and disputed boundary or landmark.

[3] Rep. Mad. Reg. V of 1822, s. 10.

them for trial and decision to Village and District Panchayats; the [Governor in Council] has passed the following rules, to be in force in the territories subject to the Presidency of Fort St. George.

Panchayats authorized to determine suits referred to them.

2. Village and District Panchayats are hereby authorized to hear and determine such suits as may be referred to them by the Collectors of zilas under this Regulation, through the Village and District Munsifs.

Employment of relatives, etc., as vakils.

3. Plaintiffs and defendants shall be allowed to employ a relative, a servant or dependent to act in their behalf in suits which may be brought before the Collectors of zilas under this Regulation, under the same provisions as are prescribed * * * [1] for suits before the District Munsifs.

In what cases persons may prefer their claims to Collectors.

4. *First.*—In cases of claims to lands or crops in districts permanently settled or otherwise, the validity of which claims may depend on the determination of an uncertain and disputed boundary or landmark, and also in cases of disputes respecting the occupying, cultivating, and irrigating of land which may arise between the proprietors or renters and their raiyats, in those districts only where the land-revenue is fixed, either permanently or for a term of years, persons having such claims may prefer them in person or by vakil to the Collector of the zila in which the lands may be situated.

What the plaint is to contain if for land.

Second.—The plaint, if for land, shall contain as accurate a description as can be obtained of the land claimed, its position, boundaries, extent and the value of its estimated annual produce, also whether it be subject to the payment of rent or revenue, or whether it be exempt from any charge on these accounts, also the time when the cause of action arose, the name and residence of the person or persons complained against, and all material circumstances which may elucidate the transaction.

What the plaint is to contain if for water.

Third.—If the plaint be for water, it shall, with regard to the land to be watered, state the above particulars and in addition thereto the custom of the village relative to the irrigation of the land in question.

Summons to defendant to be issued. Contents of summons. How to be attested and served.

5. *First.*—The Collector, on receiving a complaint preferred under the preceding section, shall issue a summons to the defendant containing a short abstract of the complaint, and shall require the defendant to appear at the kachari of the Collector, in person or by vakil, on a day specified, to make answer to the complaint. The summons shall be attested by the seal of the Collector and his official signature, or that of his Assistant, and shall be served by a single peon of the Collector's establishment.

[1] Certain obsolete words have been repealed by Central Act XII of 1876.

Second.—The Collector's peon shall require the defendant to affix his signature to the summons in acknowledgment of its having been duly served; and, in the event of defendant refusing to affix his signature thereto, the peon shall call upon some of the village-officers or neighbours of the defendant to witness such refusal and to attest the endorsement of it which he shall make on the summons, and shall return the same to the Collector on or before the day fixed for such return.

Peon how to proceed.

Refusal to acknowledge summons; how to be attested.

Third.—If a defendant against whom a summons may issue shall abscond or is not after diligent search to be found, or shall shut himself up in his own or in any house or building, or retire to any place, so that the process cannot be served upon him and the peon shall return that on such account he has not been able to serve or execute the process, or if he shall refuse to acknowledge the service of the summons, on return being made in the mode prescribed in the preceding clause, the Collector shall cause a writing in the language of the district to be stuck up in some conspicuous part of his kachari, containing a copy of the summons and a notice that if the party shall not appear on a day to be specified (which shall not be less than fifteen days from the time that the notice may be fixed up), the Collector will proceed without further notice to refer the cause, with the consent of the plaintiff, to be tried and determined by a Panchâyat of the district in which the disputed lands may be situated, without the appearance or answer of the defendant. The Collector shall likewise order a copy of the summons and notice to be fixed up, with all practicable despatch, on the outer door of the house in which the defendant may have usually dwelt, or in some conspicuous place in the village or other place in which he may have generally resided. The peon serving the summons shall return the order, with an endorsement stating at what times and places the summons may have been fixed up.

How Collector to proceed if defendant is not to be found, or refuse to acknowledge summons.

Notice to be affixed.

Where notice is to be affixed.

Return how made.

Fourth.—If the defendant shall appear by the time limited in the notice, the Collector shall proceed to investigate the cause of his absence, or the circumstance of his refusal to sign the summons, and, if it shall appear to the satisfaction of the Collector that the conduct of the defendant has been contemptuous, he is empowered to punish such contempt by imposing a fine on the defendant, according to the circumstances of the case, not exceeding ten rupees; and if such fine be not immediately paid, or security given for the payment within a reasonable time, the Collector shall punish such defendant by committing him to the zila jail, or by keeping him in custody in the kachari or village-choultry for a period not in any case exceeding fifteen days, or until the fine shall be paid.

Collector how to proceed if defendant appear.

Defendant liable to fine for contempt.

Collector how to proceed if such fine be not paid or security given.

Plaint to be read to defendant in presence of plaintiff.

Fifth.—On the appearance of the defendant, if he shall appear according to the first summons, or by the time limited in the notice, the Collector shall cause the plaint to be read over to the defendant in the presence of the plaintiff, and shall demand whether he admit or deny the truth of the complaint. If the defendant shall acquiesce in the truth of the complaint, the Collector shall record such acquiescence at the foot of the plaint, and require the defendant to attest the same with his signature in the presence of witnesses, not being servants of the Collector's establishment, who shall also attest the same, and the document shall be countersigned by the Collector, who shall return the document to the complainant, together with an order to the Tahsildar or [1] [Deputy Tahsildar] or Village Munsif, to transfer the lands described in the plaint to the plaintiff; or, if the plaint include crops grown on such lands, to cause the crops, or the value of them to be restored to the plaintiff by the defendant; or, if the plaint be for water to order the water to be distributed as required in the plaint; and no other proceedings shall be necessary in the cause.

Procedure when defendant admits truth of plaint.

Procedure when defendant denies truth of plaint.

Sixth.—If the defendant shall deny the truth of the plaint, the Collector shall inquire of the parties whether they mutually consent to have the cause investigated and decided by a Village Panchâyat; and upon their agreeing in writing to have the matter investigated and decided by the Panchâyat of any particular village, the Collector shall immediately forward the petition of plaint with an order to the Munsif of that village to assemble a Panchayat without delay to investigate and determine the suit.

When matter may be referred to District Panchayat.

Seventh.—If either the plaintiff or defendant shall object to the reference of the cause to be tried and determined by a Village Panchâyat, and either of them shall desire in writing that it may be referred to be tried and decided by a District Panchâyat, the Collector, whether the other party agree to such reference or not, shall forward the plaint to the Munsif of the district in which the disputed property may be situated, with an order to assemble a Panchâyat, within fifteen days from the receipt of such order, to investigate and determine the suit.

If neither party agree to reference, suit to be dismissed.

Eighth.—If neither of the parties shall agree to the reference of the suit to a District Panchâyat, the suit shall be dismissed, and the parties shall be at liberty to seek redress from the Zila Court or any competent jurisdiction.

Panchayats how assembled; their procedure.

6. *First.*—The Panchâyats shall be assembled according to the rules prescribed for assembling Village and District Panchâyats, and their proceedings in cases referred under

[1] These words were substituted for "principal Native Revenue-officer of the district" by the Adaptation Order of 1950.

this Regulation shall be conducted according to the general rules enacted in Regulations V [1] and VII,[2] 1816, for their guidance, with the following qualifications.

When Panchayat to be formed on challenge of one party.

Second.—When only one of the parties shall appear before the District Munsif, the Panchayat shall be formed upon the challenge of such party only, and shall proceed to try the suit * * * [3].

Sending copies of decree to Collector.

Third.—When the decree has been framed and two copies of it prepared, it shall be read in the presence of the parties, and the two copies shall be sealed up in a packet and delivered to the Munsif, who shall forward it to the Collector sealed as he received it.

Decrees to be confirmed before execution. When to be set aside.

Fourth.—Decrees of the Village and District Panchâyats in suits which may be referred to them by the Collectors under this Regulation shall not be carried into execution until confirmed by the Collector, nor shall they be set aside for any other cause than gross partiality on the part of the Panchâyat.

Forms to be observed by Collector on receiving packet.

7. The Collector shall detain the packet in the state in which he received it for twenty days ; and, if in that time no charge of gross partiality shall be preferred by either party against the Panchâyat, he shall open the packet and confirm the decision by affixing his seal and signature to each of the two copies, and he shall return them to the Munsif from whom he received them.

When to be delivered to parties.

8. *First.*—The Munsif, on receiving the copies of the decree confirmed by the Collector, shall summon the parties and deliver to each of them a copy of the decree.

Non-appearance, or refusal, to receive copy, to be endorsed.

Second.—If either the plaintiff or defendant shall fail to appear in person or by vakil to receive a copy of the decree, or, having attended, shall refuse to receive a copy, the Munsif shall cause to be endorsed on the copy intended for such party such omission or refusal, and the date. The Munsif hall attest the same with his signature, which shall be witnessed by any two credible witnesses. The copy so endorsed shall be deposited in the records of the District Munsif, or the Village Karnam, as the case may be, to be delivered to the party afterwards claiming it.

Collector how to proceed on charge of partiality being preferred to him and proved to his satisfaction.

9. *First.*—If either of the parties shall, within the prescribed period of twenty days, charge the Panchâyat with gross partiality, and if the partiality charged against the Panchâyat shall be established to the satisfaction of the Collector * * * [4] he shall in every case, whatever the amount or value of the suit may be, submit his proceedings,

[1] Repealed by Madras Act II of 1920.
[2] Mad. Reg. VII of 1816 has been repealed by Central Act III of 1873.
[3] Certain obsolete words have been repealed by Act Central XII of 1876.
[4] Certain obsolete matter has been repealed by Central Act XII of 1876.

with his opinion on the case, to the * * [1] Court of Appeal, who, provided the charge be proved by such proceedings to their satisfaction, shall annul the decision, and the parties shall be at liberty to have recourse to another Panchâyat or to any other competent jurisdiction.

When decision of Panchayat final.

Second.—Provided, however, that the decision of a second Panchâyat shall agree with the decision of a former Panchâyat in the same suit, it shall be final.

Collector how to proceed on partiality not being proved; may levy a fine.

Third.—If the partiality charged against the Panchâyat shall not be proved to the satisfaction of the Collector, he shall confirm the decree as prescribed in section 7 of this Regulation, and shall levy a fine from the party making such groundless charge, not exceeding one hundred * [2] rupees.

Decrees how to be executed.

10. Decrees of Village and District Panchâyats, in cases referred to them under this Regulation, shall be carried into execution, on the written application of the party in whose favour the decree may be given, by the Collector, or by the Tahsildar or [3][Deputy Tahsildar], by causing the boundary, when the suit relates to a disputed boundary, to be marked out in the presence of the Village Munsif and Karnam and two or more of the principal inhabitants, and in all other cases by causing the land to be given up or the water to be distributed as prescribed by the decree.

Charges on suits under Regulation.

11. Suits instituted before the Collectors under this Regulation shall be * [1] liable only to such charges as are specified in Regulation V, 1816, [4] if decided by a Village Panchayat.* [1]

12. [*Returns of decisions of Panchâyats.*] *Rep., Mad. Act II of* 1869.

Deposit of copy of Regulation.

13. A copy of this Regulation shall be lodged with and preserved by each Village Karnam, for the information of the Village Munsifs.

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[1] Certain obsolete matter has been repealed by Central Act XII of 1876.

[2] The word "Arcot" was repealed by *ibid.*

[3] These words were substituted for "principal Native Revenue-officer of the district" by the Adaptation Order of 1950.

[4] Repealed by Madras Act II of 1920.